

UNITED STATES DISTRICT COURT

for the

Eastern District of North Carolina

United States of America)

v.)

Michael Anthony Gaither)

Case No: 5:08-CR-109-1F

USM No: 51168-056

Date of Previous Judgment: March 3, 2009)

(Use Date of Last Amended Judgment if Applicable))

Defendant's Attorney Pro Se

Order Regarding Motion for Sentence Reduction Pursuant to 18 U.S.C. § 3582(c)(2)

Upon motion of the defendant under 18 U.S.C. § 3582(c)(2) for a reduction in the term of imprisonment imposed based on a guideline sentencing range that has subsequently been lowered and made retroactive by the United States Sentencing Commission pursuant to 28 U.S.C. § 994(u), and the court having considered such motion,

IT IS ORDERED that the motion is:

☒ DENIED. ☐ GRANTED and the defendant's previously imposed sentence of imprisonment (as reflected in the last judgment issued) of _____ months is reduced to _____ months.

If the amount of time the defendant has already served exceeds this sentence, the sentence is reduced to a "Time Served" sentence, subject to an additional period of up to ten (10) days for administrative purposes of releasing the defendant.

I. COURT DETERMINATION OF GUIDELINE RANGE (Prior to Any Departures)

Previous Offense Level: _____

Amended Offense Level: _____

Criminal History Category: _____

Criminal History Category: _____

Previous Guideline Range: _____ to _____ months

Amended Guideline Range: _____ to _____ months

II. SENTENCE RELATIVE TO AMENDED GUIDELINE RANGE

☐ The reduced sentence is within the amended guideline range.

☐ The previous term of imprisonment imposed was less than the guideline range applicable to the defendant at the time of sentencing as a result of a departure or Rule 35 reduction, and the reduced sentence is comparably less than the amended guideline range.

☐ Other (explain) :

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III. ADDITIONAL COMMENTS

Upon review of this case, it has been determined that the defendant was sentenced under the provisions of the retroactive crack cocaine amendment. At that time, the court fully considered the applicability of the amendment to the defendant's case and where the court found the defendant eligible and a reduction appropriate, the retroactive provision was applied. Therefore, no further consideration is warranted.

Except as provided above, all provisions of the judgment dated _____ shall remain in effect.

IT IS SO ORDERED.

Order Date: 6/25/10

James C. Fox
Judge's signature

Effective Date: _____
(if different from order date)

James C. Fox, Senior U.S. District Judge
Printed name and title